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L.J. LOHEIT, TRUSTEE
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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

IN RE:) Case No: 10-34955-E-13L
) DCN: JMC-2
)
JOHN PAUL WALKER,) TRUSTEE'S OPPOSITION TO
) DEBTOR(S) MOTION TO SELL
) PERSONAL PROPERTY
)
) DATE: SEPTEMBER 7, 2010
) TIME: 2:00 P.M.
) JUDGE: SARGIS
Debtor(s)) COURTROOM: 33

LAWRENCE J. LOHEIT, TRUSTEE, opposes Debtor(s) motion in that:

- 1) The motion does not cite the legal authority it is filed under as required under LBR 9014-1(d)(5). The Trustee presumes the motion is brought under 11 U.S.C. §363(b). If this is the authority for the motion, the Debtor's authority is limited under 11 U.S.C. §363(d)(1) & (e), and appears to be subject to the business judgment rule, California Corporations Code §1001(c).

- 2) The Debtor has not disclosed to whom they are selling the property or how they are selling the property.

1 3) Non-exempt equity may exist in the property. The Debtor disclosed a 50% interest in
2 this property according to the amended schedules filed July 28, 2010, the day of the meeting of
3 creditors. The property is a manufactured home with Debtor's value scheduled at \$7,500.00, and
4 the Debtor has indicated he will be asking for \$10,000.00 to \$15,000.00. Debtor has exempted
5 only \$7,500.00, and the Trustee has a pending objection to confirmation for August 31, 2010
6 based on no motion to value set for Chase, (although the motion has now been set and is
7 scheduled for September 7, 2010).

8 4) The Debtor's goal in the present motion based on his declaration is best served if the
9 sale occurs if the total amount of the plan payments due under the proposed plan are paid to the
10 Trustee immediately from any proposed sale. The Debtor is proposing to keep the proceeds for
11 living expenses but to keep his Chapter 13 payments current, where plan payments are \$87.00
12 per month for 36 months for a total of \$3,182.00 in payments, with 1% to unsecured claims. The
13 Debtor has indicated that the sale is to allow him to keep his trustee payments current.

14 WHEREFORE the Trustee asks that the motion not be granted unless these matters are
15 addressed.

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17 Dated: August 13, 2010



/s/ Neil Enmark
NEIL ENMARK, Attorney for Trustee

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